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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, SEPTEMBER 5, 2000

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE990786

Ex Parte: In the matter concerning
Rules implementing the State
Corporation Commission's authority
to enforce the Underground Utility
Damage Prevention Act

ORDER SETTING HEARING

On June 14, 2000, the State Corporation Commission ("Commission") entered an Order that, among other things, directed its Division of Energy Regulation ("Staff") to publish notice of the Staff's proposed revised Rules to Enforce the Underground Utility Damage Prevention Act ("Rules") and invited interested persons to comment or request a hearing on these Rules. As the June 14 Order noted, the Proposed Rules were developed by the Staff in its report which was filed on May 26, 2000. This report summarized the filed comments; discussed the development of the underground utility damage prevention program in Virginia; reviewed national "best practices" relative to damage prevention; and proposed specific revisions and additions to the existing Rules for Enforcement of the Underground Utility Damage Prevention Act adopted in Case No. PUE940071.

In response to the Commission's June 14, 2000, Order Prescribing Notice and Inviting Comments, the Commission received sixteen comments from excavators, utility operators, cities, towns, and counties. These commentators offered helpful, insightful comments on and revisions to the rules. Virginia Electric and Power Company ("Virginia Power" or "the Company") commented on the Rule revisions and requested an evidentiary hearing in the matter. Virginia Power noted that it expected to offer evidence on, among other things, the merits of focusing on appropriate training and educational efforts and proper excavation techniques rather than requirements such as the maintenance of detailed maps of underground facilities.

Appalachian Power Company, d/b/a American Electric Power, A & N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Inc., Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, Southside Electric Cooperative, Inc., the Virginia, Maryland & Delaware Association of Electric Cooperatives, and Columbia Gas Transmission Corporation did not request a hearing, but instead,

sought leave to participate in any further proceedings in this matter.

NOW UPON consideration of the foregoing, the Commission is of the opinion and finds that a public hearing should be convened to receive evidence relevant to the Rules proposed in this proceeding, together with any revisions thereto. Such a proceeding will serve to develop and clarify the changes to the proposed Rules now under consideration as well as offer an opportunity for the Staff and interested parties to suggest any additional revisions to the Rules. In this regard, we find that the Staff should prefile an original and fifteen (15) copies of direct testimony addressing the proposed Rules, the comments filed on the proposed Rules, and proposing any additional revisions to the Rules, as appropriate. The Staff should serve a copy of its direct testimony upon those parties filing comments on the proposed Rules appended to the June 14, 2000, Order Prescribing Notice and Inviting Comments. We further find that those filing comments in response to the June 14, 2000, Order Prescribing Notice and Inviting Comments should have an opportunity to prefile direct testimony concerning the proposed Rules or, in the alternative, to adopt their comments as their prefiled testimony; and that the Staff should have an opportunity to file rebuttal testimony responsive to the direct testimony or comments filed by these parties.

Accordingly, IT IS ORDERED THAT:

(1) A public hearing is hereby scheduled before the Commission for October 23, 2000, at 2:00 p.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia for the purpose of receiving evidence relevant to the Rules proposed in Appendix 1 of the Commission's June 14, 2000, Order Prescribing Notice and Inviting Comments.

(2) On or before September 22, 2000, the Commission Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of the direct testimony that it intends to present regarding the proposed Rules, the comments thereon, and proposing any additional revisions thereto, as appropriate. The Staff shall mail a copy of its testimony to each party filing comments in response to the Commission's June 14, 2000, Order Prescribing Notice and Inviting Comments.

(3) On or before September 22, 2000, the Staff shall make copies of its May 26, 2000, Staff Report and prefiled direct testimony filed in this matter available for public inspection in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday. In the alternative, these documents may be ordered from Massoud Tahamtani, Assistant Director, Division

of Energy Regulation, State Corporation Commission, P.O.
Box 1197, Richmond, Virginia 23218.

(4) On or before October 2, 2000, those persons filing comments in response to the Commission's June 14, 2000, Order Prescribing Notice and Inviting Comments who wish to participate in the public hearing to be convened herein shall file an original and fifteen (15) copies of direct testimony with the Clerk of the Commission at the address set forth below and shall serve on or before October 2, 2000, a copy of the same upon counsel for the Commission Staff, Sherry H. Bridewell, Esquire, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, Virginia 23218 and all other parties of record. Any corporate entity that wishes to submit evidence or cross-examine witnesses must be represented by legal counsel in accordance with the requirements of Rule 4:8, 5 VAC 5-10-200, of the Commission's Rules of Practice and Procedure.

(5) Any party desiring to adopt its comments as its testimony at the hearing and not planning to add any additional comments or testimony shall notify the Clerk of the Commission in writing of such intent on or before September 29, 2000. Any party that is a corporate entity and that wishes to submit evidence or cross-examine witnesses must be represented by legal counsel in accordance with the requirements of Rule 4:9,

5 VAC 5-10-200, of the Commission's Rules of Practice and Procedure.

(6) On or before October 2, 2000, those parties that filed comments in response to the Commission's June 14, 2000, Order and who wish to comment in writing on the Staff's direct testimony and proposed Rules may do so by directing an original and five (5) copies of such comments to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Such comments must refer to Case No. PUE990786. Parties filing such comments shall serve a copy of the same on or before October 2, 2000, on counsel for the Staff at the address set forth in Ordering Paragraph (4). Any person desiring to make a statement at the public hearing concerning the proposed Rules need only appear in the Commission's second floor courtroom at 9:45 a.m. on the day of the hearing and identify himself or herself to the Bailiff as a public witness.

(7) On or before October 13, 2000, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of all testimony it expects to introduce in rebuttal to all of the direct prefiled testimony and comments of the parties hereto; additional rebuttal evidence may be presented without prefiling, provided it is presented in response to evidence which was not prefiled but elicited at the time of the hearing and, provided further, the need for additional rebuttal evidence

is timely addressed by motion during the hearing and leave to present evidence is granted by the Commission. A copy of the Staff's prefiled rebuttal evidence shall be promptly mailed to all parties filing direct testimony or comments in response to this Order.